

Senate Study Bill 1188

SENATE FILE _____
BY (PROPOSED COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT BILL
BY CO=CHAIRPERSON HOUSER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to alternate energy production including
2 establishing a small producer alternate energy tax credit
3 program within the utilities board of the department of
4 commerce, requiring public utilities to offer net metering to
5 alternate energy production facilities, and permitting a
6 school corporation to own and operate an alternate energy
7 production facility, and providing effective and retroactive
8 applicability dates.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
10 TLSB 1816SC 81
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1 1 Section 1. NEW SECTION. 274.46 ALTERNATE ENERGY
1 2 PRODUCTIONS FACILITIES.
1 3 A school corporation may own and operate an alternate
1 4 energy production facility, as defined in section 476.42, for
1 5 the production of electricity for the primary use of the
1 6 school district. The alternate energy production facility may
1 7 be located outside of the boundaries of the school district.
1 8 Electricity generated in excess of the needs of the school
1 9 district may be sold or transferred.
1 10 Sec. 2. Section 422.11J, Code 2005, is amended to read as
1 11 follows:
1 12 422.11J ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS FOR~~
1 13 ~~ALTERNATE AND WIND ENERGY PRODUCTION.~~
1 14 The taxes imposed under this division, less the credits
1 15 allowed under sections 422.12 and 422.12B, shall be reduced by
1 16 ~~a wind energy production tax credit credits for alternate and~~
1 17 ~~wind energy production~~ allowed under chapter 476B.
1 18 Sec. 3. Section 422.33, subsection 16, Code 2005, is
1 19 amended to read as follows:
1 20 16. The taxes imposed under this division shall be reduced
1 21 by ~~a wind energy production tax credit credits for alternate~~
1 22 ~~and wind energy production~~ allowed under chapter 476B.
1 23 Sec. 4. Section 422.60, subsection 8, Code 2005, is
1 24 amended to read as follows:
1 25 8. The taxes imposed under this division shall be reduced
1 26 by ~~a wind energy production tax credit credits for alternate~~
1 27 ~~and wind energy production~~ allowed under chapter 476B.
1 28 Sec. 5. Section 432.12E, Code 2005, is amended to read as
1 29 follows:
1 30 432.12E ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS FOR~~
1 31 ~~ALTERNATE AND WIND ENERGY PRODUCTION.~~
1 32 The taxes imposed under this chapter shall be reduced by ~~a~~
1 33 ~~wind energy production tax credit credits for alternate and~~
1 34 ~~wind energy production~~ allowed under chapter 476B.
1 35 Sec. 6. Section 437A.6, subsection 1, paragraph c, Code
2 1 2005, is amended to read as follows:
2 2 c. Wind energy conversion property subject to section
2 3 427B.26 or ~~alternate and wind energy production facilities~~
2 4 eligible for a tax credit under chapter 476B.
2 5 Sec. 7. Section 476.42, Code 2005, is amended by adding
2 6 the following new subsection:
2 7 NEW SUBSECTION. 2A. "Net metering" means the measuring of
2 8 the difference in an applicable billing period between the
2 9 electricity supplied by an electric utility and the
2 10 electricity generated by a customer-generator facility which

2 11 is fed back to the electric utility where a net excess
2 12 provided to the customer is sold to the customer at the retail
2 13 or tariff rate and where net excess provided to the utility by
2 14 the customer-generator facility is sold at a negotiated rate
2 15 or at a rate determined by the utilities board.

2 16 Sec. 8. Section 476.43, Code 2005, is amended by adding
2 17 the following new subsection:

2 18 NEW SUBSECTION. 4A. At the election of the alternate
2 19 energy production facility, each electric utility shall
2 20 operate in parallel through net metering with the facility,
2 21 provided that the facility complies with any applicable
2 22 standard established by rule by the board. However, a
2 23 facility may choose to enter into a purchase and sale
2 24 agreement with the electric utility for the facility to sell
2 25 electricity to the utility at a negotiated rate and for the
2 26 utility to sell electricity to the facility at the utility
2 27 tariff rate.

2 28 Sec. 9. Section 476B.1, unnumbered paragraph 1, Code 2005,
2 29 is amended to read as follows:

2 30 For purposes of this ~~chapter~~ subchapter, unless the context
2 31 otherwise requires:

2 32 Sec. 10. Section 476B.2, Code 2005, is amended to read as
2 33 follows:

2 34 476B.2 GENERAL RULE.

2 35 The owner of a qualified facility shall, for each kilowatt=
3 1 hour of qualified electricity that the owner sells during the
3 2 ten-year period beginning on the date the qualified facility
3 3 was originally placed in service, be allowed a wind energy
3 4 production tax credit to the extent provided in this ~~chapter~~
3 5 subchapter against the tax imposed in chapter 422, divisions
3 6 II, III, and V, and chapter 432.

3 7 Sec. 11. Section 476B.3, subsection 1, Code 2005, is
3 8 amended to read as follows:

3 9 1. Except as limited by subsection 2, the wind energy
3 10 production tax credit allowed under this ~~chapter~~ subchapter
3 11 equals the product of one cent multiplied by the number of
3 12 kilowatt-hours of qualified electricity sold by the owner
3 13 during the taxable year.

3 14 Sec. 12. Section 476B.5, subsection 3, Code 2005, is
3 15 amended to read as follows:

3 16 3. The board shall, in conjunction with the department,
3 17 prescribe appropriate forms, including board of supervisors'
3 18 approval forms, and instructions to enable owners to claim the
3 19 tax credit allowed under this ~~chapter~~ subchapter. If the
3 20 board prescribes these forms and instructions, an owner's
3 21 application for a tax credit certificate shall not be valid
3 22 unless made on and in accordance with these forms and
3 23 instructions.

3 24 Sec. 13. Section 476B.7, unnumbered paragraph 1, Code
3 25 2005, is amended to read as follows:

3 26 Wind energy production tax credit certificates issued under
3 27 this ~~chapter~~ subchapter may be transferred to any person or
3 28 entity. Within thirty days of transfer, the transferee must
3 29 submit the transferred tax credit certificate to the board
3 30 along with a statement containing the transferee's name, tax
3 31 identification number, and address, and the denomination that
3 32 each replacement tax credit certificate is to carry and any
3 33 other information required by the department. Within thirty
3 34 days of receiving the transferred tax credit certificate and
3 35 the transferee's statement, the board shall issue one or more
4 1 replacement tax credit certificates to the transferee. Each
4 2 replacement certificate must contain the information required
4 3 under section 476B.6 and must have the same effective taxable
4 4 year and the same expiration date that appeared in the
4 5 transferred tax credit certificate. Tax credit certificate
4 6 amounts of less than the minimum amount established by rule of
4 7 the board shall not be transferable. A tax credit shall not
4 8 be claimed by a transferee under this ~~chapter~~ subchapter until
4 9 a replacement tax credit certificate identifying the
4 10 transferee as the proper holder has been issued.

4 11 Sec. 14. Section 476B.8, Code 2005, is amended to read as
4 12 follows:

4 13 476B.8 USE OF TAX CREDIT CERTIFICATES.

4 14 To claim a wind energy production tax credit under this
4 15 ~~chapter~~ subchapter, a taxpayer must attach one or more tax
4 16 credit certificates to the taxpayer's tax return. A tax
4 17 credit certificate shall not be used or attached to a return
4 18 filed for a taxable year beginning prior to July 1, 2005. The
4 19 tax credit certificate or certificates attached to the
4 20 taxpayer's tax return shall be issued in the taxpayer's name,
4 21 expire on or after the last day of the taxable year for which

4 22 the taxpayer is claiming the tax credit, and show a tax credit
4 23 amount equal to or greater than the tax credit claimed on the
4 24 taxpayer's tax return. Any tax credit in excess of the
4 25 taxpayer's tax liability for the taxable year may be credited
4 26 to the taxpayer's tax liability for the following seven
4 27 taxable years or until depleted, whichever is the earlier.
4 28 Sec. 15. Section 476B.9, Code 2005, is amended to read as
4 29 follows:

4 30 476B.9 REGISTRATION OF TAX CREDIT CERTIFICATES.
4 31 The board shall, in conjunction with the department,
4 32 develop a system for the registration of the wind energy
4 33 production tax credit certificates issued or transferred under
4 34 this ~~chapter~~ subchapter and a system that permits verification
4 35 that any tax credit claimed on a tax return is valid and that
5 1 transfers of the tax credit certificates are made in
5 2 accordance with the requirements of this ~~chapter~~ subchapter.
5 3 The tax credit certificates issued under this ~~chapter~~
5 4 subchapter shall not be classified as a security pursuant to
5 5 chapter 502.

5 6 Sec. 16. NEW SECTION. 476B.20 DEFINITIONS.
5 7 For purposes of this subchapter, unless the context
5 8 otherwise requires:

5 9 1. "Anaerobic digester system" means a system of
5 10 components that processes animal waste based on the absence of
5 11 oxygen and produces gas used to generate electricity.

5 12 2. "Board" means the utilities board within the utilities
5 13 division of the department of commerce.

5 14 3. "Net metering" means the same as defined in section
5 15 476.42, subsection 2A.

5 16 4. "Qualified alternate energy production facility" means
5 17 a qualified wind energy conversion facility, a qualified
5 18 biogas recovery facility, a qualified biomass conversion
5 19 facility, a qualified methane gas recovery facility, or a
5 20 qualified solar energy conversion facility.

5 21 5. "Qualified biogas recovery facility" means an anaerobic
5 22 digester system that is all of the following:

5 23 a. Located at the site of an agricultural operation.

5 24 b. Owned by an entity that is not prohibited from owning
5 25 agricultural land under section 9I.3.

5 26 6. "Qualified biomass conversion facility" means a biomass
5 27 conversion facility in this state that converts plant-derived
5 28 organic matter including, but not limited to, agricultural
5 29 food and feed crops, crop wastes and residues, wood wastes and
5 30 residues, or aquatic plants to energy to generate electricity.

5 31 7. "Qualified methane gas recovery facility" means a
5 32 methane gas recovery facility in this state, which is used in
5 33 connection with a sanitary landfill or which uses wastes that
5 34 would otherwise be deposited in a sanitary landfill, that
5 35 collects methane gas or other gases and converts the gas to
6 1 energy to generate electricity.

6 2 8. "Qualified solar energy conversion facility" means a
6 3 solar energy facility in this state that collects and converts
6 4 incident solar radiation to energy to generate electricity.

6 5 9. "Qualified wind energy conversion facility" means a
6 6 wind energy conversion system in this state that does one of
6 7 the following:

6 8 a. Begins generating electricity on or after January 1,
6 9 2005, generates electricity of two megawatts or less of
6 10 nameplate capacity, and is owned by any of the following:

6 11 (1) A resident of this state or an entity that is
6 12 organized under the laws of this state, is not prohibited from
6 13 owning agricultural land under section 9I.3, and owns the land
6 14 where the facility is sited.

6 15 (2) A small business as defined in section 15.102.

6 16 (3) A nonprofit organization organized or operating in
6 17 this state.

6 18 (4) A tribal council if the facility is located within the
6 19 boundaries of the tribe's settlement or reservation.

6 20 (5) A municipal utility or an electric cooperative
6 21 corporation or association.

6 22 (6) A political subdivision, including, but not limited
6 23 to, a county, city, school district, or any other local or
6 24 regional governmental organization such as a board,
6 25 commission, or association.

6 26 b. Begins generating electricity on or after July 1, 2005,
6 27 generates electricity of seven megawatts or less of nameplate
6 28 capacity, and all of the following apply:

6 29 (1) Is owned by a cooperative organized or operating in
6 30 this state other than an electric cooperative corporation or
6 31 association.

6 32 (2) All shares and membership in the cooperative are held

6 33 by an entity that is not prohibited from owning agricultural
6 34 land under section 9I.3.

6 35 Sec. 17. NEW SECTION. 476B.21 SMALL PRODUCER ALTERNATE
7 1 ENERGY PRODUCTION TAX CREDIT == APPLICATION.

7 2 1. A qualified alternate energy production facility is
7 3 eligible for a small producer alternate energy production tax
7 4 credit for any electricity generated and sold by the facility
7 5 pursuant to the provisions of this subchapter.

7 6 2. A small producer alternate energy production tax credit
7 7 certificate may only be issued upon receipt by the board of an
7 8 application that establishes that the applicant is eligible to
7 9 receive the tax credit and that satisfies other requirements
7 10 the board deems necessary. The application must be in a form
7 11 and submitted at a time the board establishes.

7 12 Sec. 18. NEW SECTION. 476B.22 PRODUCTION PERIOD.

7 13 Small producer alternate energy production tax credit
7 14 certificates may be issued under this subchapter only for
7 15 electricity generated by a qualified alternate energy
7 16 production facility before July 1, 2020.

7 17 Sec. 19. NEW SECTION. 476B.23 TAX CREDIT PAYMENT PERIOD.

7 18 A qualified alternate energy production facility may
7 19 receive small producer alternate energy production tax credits
7 20 under this subchapter for a ten-year period. The period for
7 21 payment of the tax credits begins and runs consecutively from
7 22 the date the facility begins generating electricity.

7 23 Sec. 20. NEW SECTION. 476B.24 TAX CREDIT AMOUNT ==
7 24 LIMITATIONS.

7 25 1. The amount of small producer alternate energy
7 26 production tax credits a qualified alternate energy production
7 27 facility may receive shall be equal to one and one-half cents
7 28 per kilowatt-hour of electricity generated by the facility not
7 29 subject to net metering.

7 30 2. a. For a qualified wind energy conversion system
7 31 contracted for and installed on or after July 1, 2006, the
7 32 total size of the wind energy conversion system must be
7 33 determined according to this paragraph. Unless a wind energy
7 34 conversion system is interconnected with a different
7 35 distribution system, the nameplate capacity of the wind energy
8 1 conversion system must be combined with the nameplate capacity
8 2 of any other wind energy conversion system that is all of the
8 3 following:

8 4 (1) Located within five miles of the wind energy
8 5 conversion system.

8 6 (2) Constructed within the same calendar year as the wind
8 7 energy conversion system.

8 8 (3) Under common ownership or has a common interconnection
8 9 or transmission point.

8 10 b. In the case of a dispute, the board shall determine the
8 11 total size of the system, and shall draw all reasonable
8 12 inferences in favor of combining the systems.

8 13 c. In making a determination under this subsection, the
8 14 board may determine that two wind energy conversion systems
8 15 are under common ownership when the underlying ownership
8 16 structure contains similar persons or entities, even if the
8 17 ownership shares differ between the two systems. Wind energy
8 18 conversion systems are not under common ownership solely
8 19 because the same person or entity provided equity financing
8 20 for the systems.

8 21 3. The tax credit disallowance provisions of section
8 22 476B.4 apply to tax credits available under this subchapter.

8 23 4. The total amount of electricity eligible for a small
8 24 producer alternate energy tax credit under this subchapter
8 25 shall not exceed one hundred megawatts of nameplate generating
8 26 capacity.

8 27 Sec. 21. NEW SECTION. 476B.25 OWNERSHIP == FINANCING.

8 28 1. For the purposes of section 476B.20, subsection 6,
8 29 paragraph "b", a wind energy conversion facility qualifies if
8 30 it is owned at least fifty-one percent by one or more of any
8 31 combination of the entities listed in that paragraph.

8 32 2. A subsequent owner of a qualified alternate energy
8 33 production facility may continue to receive the small producer
8 34 alternate energy production tax credit for the duration of the
8 35 original payment period if the subsequent owner is a qualified
9 1 alternate energy production facility under section 476B.20.

9 2 3. This subchapter shall not be construed to deny a tax
9 3 credit to an otherwise qualified facility that has obtained
9 4 debt or equity financing for construction or operation as long
9 5 as the ownership requirements of section 476B.20 and this
9 6 section are met. If, during the period of eligibility for a
9 7 qualified alternate energy production facility, the owner of
9 8 the facility is in default of a lending agreement and the

9 lender takes possession of and operates the facility and makes
9 10 reasonable efforts to transfer ownership of the facility to an
9 11 entity other than the lender, the lender may continue to
9 12 receive the tax credit for electricity generated and sold by
9 13 the facility for a period not to exceed eighteen months. A
9 14 lender who takes possession of a facility shall notify the
9 15 board immediately on taking possession and, at least
9 16 quarterly, document efforts to transfer ownership of the
9 17 facility.

9 18 4. If, during the tax credit payment period, a qualified
9 19 alternate energy production facility loses the right to
9 20 receive the tax credit because of changes in ownership, the
9 21 facility may regain the right to receive the tax credit upon
9 22 cure of the ownership structure that resulted in the loss of
9 23 qualification and may reapply for the tax credit, but in no
9 24 case may the tax credit payment period be extended beyond the
9 25 original ten-year limit.

9 26 5. A subsequent or requalifying owner under sections
9 27 476B.21 or 476B.23 retains the facility's original priority
9 28 order for the tax credit as long as the ownership structure
9 29 requalifies within two years from the date the facility became
9 30 unqualified or two years from the date a lender takes
9 31 possession.

9 32 Sec. 22. NEW SECTION. 476B.26 ELIGIBILITY PROCEDURE.

9 33 1. A qualifying alternate energy production facility is
9 34 eligible for the small producer alternate energy production
9 35 tax credit on the date the board receives all of the
10 1 following:

10 2 a. An application for a small producer tax credit
10 3 certificate.

10 4 b. One of the following:

10 5 (1) A copy of a signed power purchase agreement.

10 6 (2) A copy of a binding agreement other than a power
10 7 purchase agreement to sell electricity generated by the
10 8 project to a third person.

10 9 (3) If the facility developer or owner will sell
10 10 electricity to its own members or customers, a copy of the
10 11 purchase order for equipment to construct the facility with a
10 12 delivery date and a copy of a signed receipt for a
10 13 nonrefundable deposit.

10 14 c. Any other information the board deems necessary to
10 15 determine whether the proposed facility qualifies for the tax
10 16 credit under this subchapter.

10 17 2. The board shall determine whether a facility qualifies
10 18 for the tax credit and respond in writing to the applicant
10 19 approving or denying the application within thirty days of
10 20 receipt of the information required in this section and
10 21 section 476B.21. A facility that is not operational within
10 22 eighteen months of receipt of a letter of approval is no
10 23 longer approved for the tax credit. The board shall notify an
10 24 applicant of potential loss of approval not less than sixty
10 25 days prior to the end of the eighteen-month period.
10 26 Eligibility for a facility that loses approval may be
10 27 reestablished as of the date the board receives a new
10 28 completed application.

10 29 3. Each tax credit certificate shall contain the owner's
10 30 name, address, and tax identification number, amount of tax
10 31 credits, the first taxable year the certificates may be used,
10 32 which shall not be for a taxable year beginning prior to
10 33 January 1, 2005, and the expiration date of the tax credit
10 34 certificate, which shall be seven years from its date of
11 1 issuance and any other information required by the department
11 2 of revenue. Once issued by the board, the tax credit
11 3 certificate shall be binding on the board and the department
11 4 of revenue and shall not be modified, terminated, or
11 5 rescinded. The board shall notify the department and identify
11 6 the qualified alternate energy production facility for which
11 7 the owner received tax credit certificates.

11 8 4. If the tax credit application is filed by a
11 9 partnership, limited liability company, S corporation, estate,
11 10 trust, or other reporting entity all of the income of which is
11 11 taxed directly to its equity holders or beneficiaries, the tax
11 12 credit certificate may, at the election of the owner, be
11 13 issued directly to equity holders or beneficiaries of the
11 14 owner in proportion to their pro rata share of the income of
11 15 such entity. If the owner elects to have the tax credit
11 16 certificate issued directly to its equity holders or
11 17 beneficiaries, the owner must, in the application made under
11 18 section 476B.21, identify its equity holders or beneficiaries,
11 19 and the amount of such entity's income that is allocable to
each equity holder or beneficiary.

11 20 Sec. 23. NEW SECTION. 476B.27 ELIGIBILITY EXCEPTIONS.

11 21 1. It is the policy of this state to encourage the
11 22 development of smaller alternate energy production facilities
11 23 in order to expand the ownership of alternate energy
11 24 production and reduce the dependence of the state on energy
11 25 imported from outside of the state. The board shall reject an
11 26 application from an applicant that in the board's opinion is
11 27 an entity structured for the purpose of obtaining the tax
11 28 credit, and is in fact part of a larger entity that when
11 29 viewed as a whole would not meet the requirements of this
11 30 subchapter. The board may adopt rules under chapter 17A to
11 31 carry out the purposes of this subsection.

11 32 2. The board shall reject an application from a qualified
11 33 wind energy conversion facility if the proposal includes
11 34 locating a wind turbine within a bird migratory flyway if the
11 35 wind turbine poses a significant threat to the population of
12 1 the migrating bird species. The department of natural
12 2 resources shall provide the board with a map designating bird
12 3 migratory flyways within the state. The board shall consult
12 4 with the department of natural resources and any other
12 5 appropriate knowledgeable person to determine whether a
12 6 proposed wind turbine constitutes a significant threat to the
12 7 population of a migratory bird species.

12 8 Sec. 24. NEW SECTION. 476B.28 TRANSFERABILITY AND USE OF
12 9 TAX CREDIT CERTIFICATES == REGISTRATION.

12 10 The provisions of sections 476B.7, 476B.8, and 476B.9,
12 11 apply to the small producer alternate energy production tax
12 12 credit as established in this subchapter. The board may adopt
12 13 rules necessary to administer this section.

12 14 Sec. 25. NEW SECTION. 476B.29 CONTESTED CASE PROCEEDINGS
12 15 FOR RATE=REGULATED UTILITIES.

12 16 The board may conduct contested case proceedings against
12 17 any rate=regulated utility pursuant to chapter 476 where a
12 18 rate=regulated utility refuses to agree to purchase
12 19 electricity from a qualified alternate energy production
12 20 facility or other alternate energy production facility as
12 21 defined in section 476.42. In the contested case proceeding,
12 22 the board may determine the avoided costs of the utility for
12 23 determining rates, the applicability of net metering, and any
12 24 other issue deemed appropriate by the board.

12 25 Sec. 26. NEW SECTION. 476B.30 MEDIATION OF PURCHASE
12 26 CONTRACT DISPUTES.

12 27 1. A qualified alternate energy production facility
12 28 claiming to be aggrieved by a non=rate=regulated utility
12 29 refusing to purchase electricity from a qualified facility
12 30 under this chapter may file with the board a written complaint
12 31 which shall state the name and address of the utility alleged
12 32 to have refused to purchase, shall set forth the facts of the
12 33 attempted sale, and shall contain such other information as
12 34 may be required by the board.

12 35 2. Upon receipt of the complaint by the board or upon the
13 1 board's own motion, the board shall bring the parties together
13 2 for mediation of a contract, but the board shall not compel
13 3 the parties to agree. The chairperson of the board shall
13 4 appoint one board member to act as mediator. The mediation
13 5 process shall be conducted according to chapter 679C and rules
13 6 adopted by the board.

13 7 3. Mediation participation under this section shall
13 8 include attendance at a mediation session with the mediator
13 9 and the parties to the dispute, listening to the mediator's
13 10 explanation of the mediation process, presentation of one
13 11 party's view of the dispute, and listening to the responses of
13 12 the parties. Participation in mediation does not require that
13 13 the parties reach an agreement or contract. Parties to the
13 14 mediation shall have the right to advice and presence of
13 15 counsel at all times.

13 16 4. If a utility fails to negotiate in good faith or to
13 17 participate in mediation when requested by the board, the
13 18 facility may institute a civil action in district court for
13 19 violations of any federal or state requirements. This
13 20 subsection shall not limit the rights of any facilities who
13 21 choose not to pursue mediation pursuant to this section.

13 22 5. The board shall establish rules to administer this
13 23 section.

13 24 Sec. 27. EFFECTIVE DATE. This Act, being deemed of
13 25 immediate importance, takes effect upon enactment and applies
13 26 retroactively to taxable years beginning on or after January
13 27 1, 2005.

13 28 EXPLANATION

13 29 This bill establishes a small producer alternate energy
13 30 production tax credit program. The utilities board of the

13 31 department of commerce shall administer the program. Tax
13 32 credit certificates for credits against personal and corporate
13 33 income taxes, franchise taxes, insurance company taxes, and
13 34 electric and natural gas taxes are provided to certain
13 35 qualified wind energy conversion facilities and certain
14 1 qualified biogas recovery facilities.

14 2 A qualified wind energy conversion facility includes those
14 3 facilities in Iowa beginning operation on or after January 1,
14 4 2005, that are owned by a resident of Iowa, organized under
14 5 the laws of Iowa, a small business, a tribal council, an Iowa
14 6 municipal utility or electric cooperative corporation or
14 7 association, a political subdivision, school district, or
14 8 other local government organization. A wind energy conversion
14 9 facility beginning operation on or after July 1, 2005, that
14 10 generates seven megawatts or less of electricity if owned by a
14 11 cooperative association if all shares of the cooperative are
14 12 not prohibited from owning agricultural land is also
14 13 qualified. A qualified biogas recovery facility is an
14 14 anaerobic digester system located on an agricultural operation
14 15 and is owned by an entity not prohibited from owning
14 16 agricultural land. A qualified biomass conversion facility is
14 17 a facility that converts plant-derived organic matter to
14 18 energy. A qualified methane gas recovery facility is a
14 19 facility which uses waste that would otherwise be deposited in
14 20 a sanitary landfill that collects and converts methane gas to
14 21 energy. A qualified solar energy conversion facility is a
14 22 facility that collects and converts solar radiation to energy.

14 23 A qualified alternate energy production facility may
14 24 receive tax credits for the number of kilowatt-hours of
14 25 electricity generated and sold that is not subject to a net
14 26 metering agreement with an electric utility at the rate of one
14 27 and one-half cents per kilowatt-hour. The capacity of wind
14 28 energy conversion facilities located within five miles of each
14 29 other which are constructed within the same calendar year and
14 30 under common ownership are combined for determining total
14 31 capacity. A qualified alternate energy production facility
14 32 whose ownership is transferred may still be eligible for the
14 33 tax credit.

14 34 Applications for the tax credit must be submitted to the
14 35 utilities board along with a copy of a contract to sell its
15 1 electricity to a third party or to its own members. The board
15 2 must give notice of approval or denial within 30 days. Tax
15 3 credit certificates expire seven years after issuance and are
15 4 transferable. The board shall develop a system of
15 5 registration of small producer tax credit certificates issued.

15 6 The board may conduct contested case proceedings for issues
15 7 regarding a rate-regulated utility's refusal to purchase
15 8 electricity from a qualified facility and other alternate
15 9 energy production facilities. The board may conduct mediation
15 10 to assist with negotiations of purchase agreements between
15 11 non-rate-regulated utilities and qualified facilities.

15 12 The bill permits school corporations to own and operate
15 13 alternate energy production facilities even if the facility is
15 14 located outside of the school district.

15 15 The bill provides that public utilities must operate in
15 16 parallel through net metering when elected by a facility.

15 17 The bill is effective upon enactment and applies
15 18 retroactively to taxable years beginning on or after January
15 19 1, 2005.

15 20 LSB 1816SC 81

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